

### **REMARKS**

Claims 1-4, 6, 7, 16-22, and 24-26 are currently pending in the subject application and are presently under consideration. Claims 1, 16, 20, 22 and 24 have been amended as shown on pp. 2-7 of the Reply. In addition, claims 4, 6, 19 and 21 have been cancelled and claims 27-33 have been newly added. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

#### **I. Rejection of Claims 1-4, 6, 7, 16, 18-22, and 25-26 Under 35 U.S.C. §103(a)**

Claims 1-4, 6, 7, 16, 18-23, and 25-26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Shoff et al. (US 6,240,555) in view of Hirata (US 6,374,406). The subject Office Action indicates that claims 1-4, 6-9, 11-16, 18-23 and 25-26 are rejected under these claims. However, as claims 8-15 and 23 have previously been cancelled, it is assumed that the rejection was intended to cover claims 1-4, 6, 7, 16, 18-22, and 25-26. Withdrawal of this rejection is respectfully requested for at least the following reasons. The cited references, either alone or in combination, fail to teach or suggest all limitations of the subject claims.

[T]he prior art reference (or references when combined) must teach or suggest all claim limitations. See MPEP §706.02(j). See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). [W]hen the prior art teaches away from combining certain known elements, discovery of a successful means of combining them is more likely to be non-obvious. See *KSR v. Teleflex*, 550 U.S. \_\_\_, 127 S. Ct. 1727 (2007) citing *United States v. Adams*, 383 U. S. 39, 51-52 (1966). A factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of arguments reliant upon *ex post* reasoning. See *KSR v. Teleflex*, 550 U.S. \_\_\_, 127 S. Ct. 1727 (2007) citing *Graham v. John Deere Co. of Kansas City*, 383 U. S. 1, 36 (warning against a “temptation to read into the prior art the teachings of the invention in issue” and instructing courts to “guard against slipping into the use of hindsight” (quoting *Monroe Auto Equipment Co. v. Heckethorn Mfg. & Supply Co.*, 332 F. 2d 406, 412 (CA6 1964))).

The claimed subject matter relates to a token schema that identifies pertinent program information for a corresponding segment of broadcast audio and/or visual information. This allows a token enabled recording device to add the program criteria to a program list for recording at a future date and time, and also allows tokens to be tracked through a token global

unique identifier. To this end, independent claim 1 recites, a system for representing at least one of an audio and visual program, comprising *a token application that obtains a token that identifies a particular broadcast program, the token comprises a schema that is a multi-level data structure with a plurality of different fields, **the plurality of fields includes at least a program identifier and a plurality of broadcast program characteristics that specifies different aspects of the particular broadcast program such that the different aspects uniquely identify the particular broadcast program** and a recording component schedules a recording of the particular broadcast program based at least in part on the plurality of fields of the token and local programming data.* Shoff et al. and Hirata fail to teach or suggest such aspects.

Shoff et al. relates to an interactive entertainment system that provides supplemental interactive content along side traditional broadcast video programs such as television shows or movies. A viewer tunes in a particular program or browses an electronic programming guide for programs. An indication is provided to the viewer when interactive content is available in association with a particular program. The interactive content can be downloaded and presented along side the tuned in traditional broadcast. (See Abstract). However, Shoff et al. does not disclose a token that includes a program identifier and a plurality of program characteristics that identify a particular broadcast program. Rather, Shoff et al. discloses an electronic program guide that includes a URL to supplemental content such as questions about a program, games, trivia, facts, advertisements, listing of products, etc. (See col. 3, ll. 31-35). In addition, while Shoff et al. discloses supplemental content is downloaded to a set-top box, the supplemental content is not a token that identifies a particular broadcast program. In contrast, the supplemental content is additional information related to a particular program but does not include identifying information therein.

Hirata is relied upon to make up for the deficiencies of Shoff et al. with respect to the subject claims. It is respectfully submitted that Hirata fails to cure such deficiencies. Hirata relates to using electronic mail to program household appliances, allowing the appliances to accomplish a set of standard tasks. For example, Hirata allows a video deck to record a video program based upon user specified time, date and channel information. The specified time, date and channel information are supplied by the user through electronic mail. However, the electronic mail is not nor does it contain a token that identifies a particular broadcast program. Rather, Hirata discloses a set of parameters associated with a control command. The set of

parameters are details of the command that enable a household appliance to perform the desired task. For example, simply providing a time, date and channel does not identify a particular broadcast program as a user requires knowledge of local broadcast schedules to determine the underlying program. In the claim subject matter, a token is provided that identifies a particular broadcast program while Hirata discloses details or parameters associated with a control command.

Similarly, independent claim 16 recites, in part, a token includes a multi-level data structure with a plurality of fields that specifies the program criteria, the plurality of fields includes at least a program identifier and a plurality of broadcast program characteristics that specifies different aspects of the particular broadcast program such that the different aspects uniquely identify the particular broadcast program. Further, independent claim 20 recites the token includes multi-level data structure with a plurality of fields that identifies a particular broadcast program on a variety of broadcast platforms, the plurality of fields includes at least a program identifies and a plurality of program characteristics that specifies different aspects of the particular broadcast program such that the different aspects uniquely identify the particular broadcast program and independent claim 22 recites *a token includes multi-level data structure with a plurality of fields that identifies a particular broadcast program on a variety of broadcast platforms, the plurality of fields includes at least a program identifies and a plurality of program characteristics that specifies different aspects of the particular broadcast program such that the different aspects uniquely identify the particular broadcast program*. As discussed above, Shoff et al. and Hirata, alone or in combination, fail to teach or suggest a token that identifies a particular broadcast program. Shoff et al. relates to identifying and downloaded supplemental content associated with an interactive program and Hirata relates to defining parameters of a control command issued to a household appliance.

In view of at least the foregoing, it is readily apparent that Shoff *et al.* and Hirata, either alone or in combination, fail to teach or suggest each and every limitation recited in the subject claims. Therefore, the cited references do not make obvious the claimed subject matter and this rejection should be withdrawn.

**II. Rejection of Claims 17 and 24 Under 35 U.S.C. §103(a)**

Claims 17, and 24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Shoff et al. in view of Hirata as applied to claims 16 and 22. The subject Office Action also indicated that claim 10 is similarly rejected. However, as claim 10 was previously cancelled, that rejection is moot. This rejection should be withdrawn for at least the following reasons. Claims 17 and 24 depend from independent claims 16 and 22, respectively, and for reasons stated *supra*, Schoff et al. and Hirata fails to teach or suggest all limitations as recited in the independent claims from which the subject claims depend. Accordingly, withdrawal of this rejection is respectfully requested.

**CONCLUSION**

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP135US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

AMIN, TUROC & CALVIN, LLP

/Evan T. Perry/

Evan T. Perry

Reg. No. 62,190

AMIN, TUROC & CALVIN, LLP  
127 Public Square  
57<sup>th</sup> Floor, Key Tower  
Cleveland, Ohio 44114  
Telephone (216) 696-8730  
Facsimile (216) 696-8731